✓ Preserve

App. F. IX-4

Previous References

Z 219-27-142

1933. (Mezrai)

File No. 175--33

Serial Nos. 1+2

Later References

General and Revenue Secretariat.

Serial Nos. 2

Part B for January 34.

SUBJECT.

Encroachment in certain lands at Neelasandra C+M Station belonging to Sri Dharmaraya Swami Temple Ulsoor pet Bangalore Cl,

---

Mezz Comm
no 926 961-34

Forwards copy of Govt. Advocate's opinion on the matter for taking necessary action

RG

1793 F 33 Encroachment in certain lands belonging to Sri Dharmaraya Swami Temple Bangalore City

General and Revenue Secretariat — Mcy File No. 175 of 1933. [App. F. III—2

Serial No.	
1	Letter no 15/33-34 & 12-9-33 from the Mcy Commissioner stating that the Collector C & M Station pleads inability to take action as the parties claim adverse possession of S nos 79 and 99 of Neelasandra Village C & M endowed to ~~a Mosque Station~~ Sri Dharmaraya Swami temple Ulsoor pet Bangalore City and requesting that legal advice may be obtained in the matter.
Station	Law Section may be consulted in the matter.
	Sd/ N Rudra 5/10/33
	Yes Sd/ 5/10/33
	Asst Secy Law Dept with Compts

The question of encroachment appears to be rather difficult to prove in a Court of law. After all, the encroachments do not seem to be of recent origin and the parties are claiming rights by adverse possession.

If the matter is taken to the Courts, it is doubtful if anything more than 6 years assessment can be recovered. The action will however ~~have to~~ lie only in the Courts of the C.M.S.t.n. If the parties are willing to pay ~~this~~ ~~assessment~~ 6 years arrears at a reasonable rate, the dispute may perhaps be amicably settled.

NOTE—Contn. Sheet

WD 70—GBPM—60,000—13-8 31

File No. of 193 .

General and Revenue Secretariat

Otherwise a civil suit will have to be filed in the interests of the Temple

Forwarded with compliments to the Govt Advocate for favour of opinion & advice

27/10/33

Rec'd No. P 14 dated 27/10

140 Law

Returned with compliments.

K.O. No. 88 33-3 dt 22.12.

The facts of the case are clearly summarised in the Deputy Commissioner's letter to the Muzrai Commissioner dated 28-6-1933 and in the Revenue Inspector's report dated 25-5-1932. The question has been pending for many years and the report of the Shanbhogue made so far back as 10-8-1926 (Takrar Thakte for 25-26) - mentions that Munisami had been in possession of the encroached portion for 10 or 12 years. Munisami in his petition to the Amildar says that he is not in - unauthorised possession, but that he purchased it in a public auction held by the Hobli Shekdar. Yerrappa Gowda states in his petition to the Collector, Civil and Military Station, that the land has been in the possession of his ancestors and himself for over 70 or 80 years and that he has not encroached on any portion of the land belonging to Government or the Temple.

GENL. 23 DEC. 1933 No 820

Whether there has been any encroachment on their part depends on the evidence which the Muzrai Department will be able to place before the Court if a suit is filed against them.

Since the lands are within the limits of the

Civil

Serial No.

Civil & Military Station, the tenants will have to be sued only there, and that only for arrears for - 6 years as the rest of the claim is not in time - See Rustumji's Limitation page 595.

Under the circumstances the matter I think may be adjusted without a suit as the tenants seem to be agreeable to that course as is clear from their - Petitions and the report of the Revenue Inspector. Mutchalikas may also be taken from them fixing their obligations hereafter.

V. Mayavaram Jr
Government Advocate.

CSN/21.12.33

Submitted for further action

22/12

13 The above legal opinion will be Communicated to the Mc for taking further action accordingly.

H-Lee

14) Recd 29/12/33

15) 2/4. 3/1

16) 5.1.34 5/1/34

No 926 Dy 6.1.34
Communicated.

NOTE—Comn. Sheet

TYPING SECTION * 5 JAN 1934 * GENL. & R.L.V. SECTT.

WD 70—GBPM—0 000—13-8-3.

Mem 3 File No. 175 of 193 3

General and Revenue Secretariat

Advocate's opinion dt 22/12/33 on the subject. 2

B 6/1 ✓

M C. 13]

No. 15/33-34
two copies + file.

OFFICE OF THE MUZRAI COMMISSIONER
IN MYSORE.

Dated, Bangalore,.. 9th September 1933.

Moz 175-32

FROM N. Madhava Rau, Esq., B.A., B.L.,
~~XXXX

Letter No.P2-401/33-34 dated 15-6-36 from the Deputy Commissioner, Bangalore District, to the Muzrai Commissioner in Mysore

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In continuation of this office letter No.P2-Lar.47/26-27 dated 6-5-36 regarding the unauthorised encroachment and occupation of lands in certain portion of S.Nos.79 and 99 of Inam Neelasandra village situated within the limits of the Civil,and Military Station and endowed to Sri Dharmarayaswami Devaru of Bangalore have the honor to state that the Collector of the Civil and Military Station has since returned the records with his letter No.3361-L-3 dated 11-6-36 (Copy enclosed) stating that he is unable to take action as the parties claim actual possession of the property and has opined that this is a fit case to be decided in a Civil Court.

I request your instructions as to what further action should be taken in the matter. The connected records ending with Bangalore Sub Division Memo's Memo No.P1-1176/31-32 dated 28-4-36 are enclosed herewith for avoiding reference and return.

"SCIY"

for Muzrai Commissioner.

Letter No.3364-D-33 dated 11-7-33 from the Collector, Civil and Military tation, Bangalore, to the Deputy Commissioner, Bangalore District.

Survey Nos.79 and 99 Nilasandara village - encroachment - removal of - You No.B2-Dar.47/26-27 dated 28-6-1933.

As the parties claim adverse possession of the property, I am unable to ta action in the matter. I am of opinion that this is a fit case to be decided i Civil Court.

I return herewith the file of papers received with your above letter.

"COPY"

For Muzrai Commissioner.

Letter No.RB-Dar.47/36-37 dated 28-6-33 from the Deputy Commissioner, Bangalore District, to the Muzrai Commissioner in Mysore.

8

I have the honor to state that S.Nos.79 and 99 of Neelasandra village situated within the limits of Civil and Military Station and endowed to Sri Dharmaravaswami temple at Bangalore City were unauthorisedly encroached upon ~~by the owners upon~~ by the owners of the neighbouring land some years ago and are in their enjoyment since.

This came to the notice of the Taluk Authorities in the year 1926 and Takarar Shaktas were put up against Appaji bin Venkatappa owners of S.Nos.75 and 76 of Neelasandara Village for having encroached upon S.No.79 and against Gerappagowda for having encroached upon S.No.99.

The connected records were submitted to this office for orders. On 19 November 1927 a reference was made to Revenue Commissioner as to how the Deputy Commissioner should proceed in the matter as the village is situated within the limits of the Civil and Military Station.

In February 1928 he communicated the orders of Government passed in the No.1298/Muz.219-27-3 dated 6-2-1928 stating that in the present case the Deputy Commissioner should act as Manager and move the Collector to take action in the matter of encroachment etc.

Afterwards, a detailed report was called for from the Sub Division Officer requesting him to verify the details after inspecting the lands.

The Sub Division Officer, Bangalore, in his report dated 17-6-1931 recommended the recovery of double assessment from the year 1915-16 in respect of S.No.79 and giving out the encroached portion for temporary cultivation. As regards S.No.99 which is the tank bed of Neelasandra Tank, he stated that the tank itself had the appearance of an abandoned tank and could not store water to even a tenth of its original capacity. He recommended the disposal of the land at an upset price of R 100/- per acre and the recovery of 20 fold assessment from the occupant in addition. A copy of his report is enclosed for perusal.

These facts were placed before the Collector and he was requested to deal with the question after instituting necessary enquiries.

He has pointed out that according to the Bombay Acts which are in force in the Station he could recover only ten times the assessment for one year only in audition to the levy of ordinary assessment payable annually on these lands if allowed for cultivation. He has pointed out that the penal assessment proposed by this office could be recovered only on the Deputy Commissioner furnishing the Collector a certificate as required by Inam Act I of

1890 and that if the latter course is adopted the Government of Mysore would be liable to being sued in the Mysore Court in respect of the levy. As the lands are situated in the Civil and Military Station the only cour open is to leave the matter entirely to the Collector of the Station to deal with the matter under the Revenue Law applicable to the Civil and Military Station. I have therefore requested him to deal with the matte and to intimate the result of the action taken by him.

On receipt of his reply a further report will be submitted.

"COPY"

For Muzrai Commissioner.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

FINANCIAL SECRETARIAT,

No. 926 Dated, Bangalore, 5th January 193 4

Muzrai 175-33 one file

From

S SHAMANNA, Esq., B A

Financial Secretary to the Government of His Highness the Maharaja of Mysore

To

adhava Rao, Esq.,B.A.,B.L.,
Muzrai Commissioner in Mysore, Bangalore.

Sir,

With reference to the correspondence ending with your letter No.15/33-34 dated the 12th Septr. 1933 in the matter of the encroachments in S.Nos.72 and 73 of Neelasandra village, Civil and Military Station, Bangalo belonging to Sri Dharmarayaswami temple, Bangalore City I am directed to forward herewith for information and needful action copy of the Government Advocate's opinio dated the 22nd Decr. 1933 on the subject.

The records received with your letter under - advertence are herewith returned.

I have the honour to be,
Sir,
Your most obedient servant,

FINANCIAL SECRETARY TO GOVT

Un-Official Note No.86 of 33-34 dated the 22nd Dec. 1933 from the Government Advocate to the General Secretary to Government.

The facts of the case are clearly summarised in the Deputy Commissioner's letter to the Muzrai Commissioner dated the 21th June 1933 and in the Revenue Inspector's report dated 25th May 1932. The question has been pending for many years and the report of the Thanlhogue made so far back as 10th August 1926 (Taxrar Thante for 1925-) mentions that Munisami had been in possession of the encroached portion for 10 or 12 years. Munisami in his petition to the Amildar says that he is not in unauthorised possession, but that he purchased it in a public auction held by the Hobli Theikdar. Verrappa Gowda states in his petition to the Collector, Civil and Military Station, Bangalore, that the land has been in the possession of his ancestors and himself for over 70 or 80 years and that he has not encroached on any portion of the land belonging to Government or the Temple.

Whether there has been any encroachment on their part depends on the evidence which the Muzrai Department will be able to place before the Court if a suit is filed against them.

Since the lands are within the limits of the Civil and Military Station, the tenants will have to be sued

sued only there, and that only for arrears for six years as the rest of the claim is not in time - See Rustumji's Limitation, page 595.

Under the circumstances, the matter I think may be adjusted without a suit as the tenants seem to be agreeable to that course as is clear from their petitions and the report of the Revenue Inspector. Kutchalikas may also be taken from them fixing their obligations hereafter.

"Copy."

FINANCIAL SECRETARY TO GOVERNMENT.

GS

VVK.3.

Appendix F G—1]

SUBJECT .....

.....

.....

Diary No. of letter replied to .....

General and Revenue Secretariat

( )

the 193 .

Date of issue 6/1/34

Signed by .....

List of enclosures .....

1 Paras 8—11 (Form in cl...

Copied by .....

(Typist)

Examined by 3+3 NNR 5/1/34 .....

Section

File No.

Serial No.

No. 926 in 3 stone file

To

The M.C.

Sir,

With reference the encroachment
ending with your letter No.
154/33-34 dt 12.9.33 ~~[illegible]~~
in the matter of the encroachments
in S Nos 79 and 99 of —
Neelasandra Village. C & M
Station Bangalore belonging
to Sri — Dharmaraja Swami
temple Bangalore I am
directed to forward
herewith for your information
and needful action.
The Collector's opinion
dt 22.12.33 in the subject.
The records received
with your letter under acknowledgement herewith returned —

Para etc
5/1/34
for Secy

GV 4/1/34